

State of Illinois

Department of Employment Security



Appealing to the Board of Review



INTRODUCTION FROM IDES

The Illinois Department of Employment Security (IDES) is committed to ensuring that unemployment insurance claimants who qualify for unemployment insurance benefits receive them. We are also committed to preventing employers from being held liable for benefit payments to claimants who are not eligible for them.

That is why we carefully investigate a claimant's eligibility for benefits. Also, both employers and claimants have two opportunities within IDES to dispute our decision to allow or deny benefits.

The first time that an employer or claimant can dispute our decision is during an appeal hearing, usually conducted over the telephone with an IDES Hearings Referee. If the employer or claimant is not satisfied with the decision of the Referee, then either party can file a further appeal to the Board of Review.

The process for appealing to the Board is the same for both employers and claimants. This process can be as simple as submitting a signed letter stating why you're appealing. One of the most important things to remember is that appeals to the Board must be filed within 30 calendar days of the date of mailing of the IDES Hearings Referee's decision.

We hope that you'll find this pamphlet helpful in understanding the Board of Review process. For more information on the appeal hearing process, see the IDES pamphlet called "Preparing For Your Appeal Hearing" available at **www.ides.illinois.gov/publications** or call **(800) 244-5631**. For more information about the Board of Review process, call **(800) 244-5631**.

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IMPORTANT DEADLINES FOR APPEALING TO THE BOARD OF REVIEW

The following tables highlight key deadlines for appealing to the Board Review, should either party in a case decide to present more information for their case. The tables do not include deadlines for responding to written arguments. For details on response deadlines or on any other component of this process, please refer to the contents of this pamphlet.

To file an appeal to the Board of Review (see p. 3 for details)

Appellant	Deadline: 30 calendar days after the mailing date of the Appeal Hearing Referee's decision.
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To request a transcript of the appeal hearing (see p. 5 for details)

Appellant	Deadline: 15 calendar days after filing an appeal to the Board.
Appellee	Deadline: 7 calendar days after mailing date on "Notice of Pending Appeal."

To submit a written argument (see p. 7 for details)

	Deadline if transcript was requested (furnished by file inspection or by mail)	Deadline if transcript <u>was not</u> requested
Appellant	10 calendar days after your file inspection or the mailing date of your transcript.	15 calendar days after filing an appeal to the Board.
Appellee	Same as above.	7 calendar days after the mailing date on the "Notice of Pending Appeal."

To file a request to present additional evidence (see p. 8 for details)

	Deadline if transcript was requested (furnished by file inspection or by mail)	Deadline if transcript <u>was not</u> requested
Appellant	10 calendar days after your file inspection or the mailing date of your transcript.	15 calendar days after filing an appeal to the Board.
Appellee	Same as above.	7 calendar days after the mailing date on the “Notice of Pending Appeal.”

To request an oral argument (see p. 11 for details)

Appellant	Deadline: File the request when filing the appeal.
Appellee	Deadline: 7 calendar days after mailing date on “Notice of Pending Appeal.”

To appeal the Board’s decision (see p. 13 for details)

Appellant or Appellee	Within 35 calendar days of the mailing date of the Board’s decision, file a “Complaint for Administrative Review” in circuit court and have summons issued.
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COMMON QUESTIONS AND ANSWERS

This pamphlet contains helpful information about the Board of Review appeals process. Please read all the information carefully. The address of the Board of Review is: **IDES, Board of Review, 33 South State Street, 9th Floor, Chicago, IL 60603**. If you have any questions, you may call: **(800) 244-5631**.

What is the Appeals Process to the Board of Review?

The Board decides appeals from decisions made by the Hearings Referee. The Board's decision is based on the existing record obtained before the Hearings Referee, with further hearings seldom being required. When an appeal is filed, the Board mails a "Notice of Pending Appeal" to you. Following a careful review of the record, the Board issues a written decision, which is mailed to you. Unless the matter is remanded (sent back to the referee or claims adjudicator), this is the final administrative decision made on the appeal.

How Is an Appeal Filed?

No special form is necessary to file an appeal. To appeal, you must file a signed and dated statement that you want to appeal. This statement must be filed with the Board within 30 calendar days of the mailing date of the Referee's decision (as indicated on the document itself). You should describe the parts of the Referee's decision with which you disagree and why. You may file the appeal in person or by mail at the local unemployment insurance office where the claim was filed or at the Office of the Board of Review at: **IDES, Board of Review, 33 South State Street, 9th Floor, Chicago, IL 60603**. You may also file the appeal with the Board by fax at: **(312) 793-2373**.

Can Someone Help Me?

The appeals process is designed such that a representative (such as a lawyer or other individual) is unnecessary. Appeals are generally decided on the existing written record without any additional hearings. However, you have the right to have a representative of your choice help you with the appeals process. Your representative can be an attorney or any individual you choose.

Illinois law provides free legal assistance to small employers and claimants who qualify. A small employer is one who reported wages paid to fewer than 20 individuals, whether part-time or full-time, for each of any two of the four calendar quarters preceding the quarter in which the employer applied for legal assistance. Independent law firms provide legal assistance; they are not part of IDES.

Representation is not automatic and depends, in part, on the facts of your individual case. Even if you do not qualify for representation, an attorney will speak with you about your case. If you are interested, call one of the following numbers immediately after receiving a ruling against you or a "Notice of Pending Appeal." Any delay could disqualify you from obtaining this service.

Note: The phone number to use is determined by the last digit of your Social Security Number or UI Account Number.

Claimants

(Last Digit of Social Security No. is 0-4)

Toll-Free: (800) 884-6591

Out of State: (847) 991-9240

TTY: (866) 848-5609

(Last Digit of Social Security No. is 5-9)

Toll-Free: (888) 430-1776

Out of State: (312) 640-1776

TTY: (312) 640-1264

Small Employers

(Last Digit of UI Account No. is 0-4)

Toll-Free: (866) 641-4288

TTY: (312) 641-6403

(Last Digit of UI Account No. is 5-9)

Toll-Free: (877) 849-2007

TTY: (866) 802-8732

Once an Appeal Is Filed, Do I Have to Do Anything Else?

No further action is required. If you wish, under certain conditions discussed below, you can provide further arguments or request to present additional evidence to the Board. To help you, we can provide you a copy (at your expense) of the transcript of your hearing before the Referee and other documents of record, or you can make an appointment to inspect the file.

How Do I Obtain a Transcript?

You may obtain a copy of the transcript (and other documents) under the following conditions:

If You Appealed - You have 15 calendar days after the appeal was filed to request the transcript (and other documents).

If The Other Party Appealed - You have 7 calendar days after the mailing date of the “Notice of Pending Appeal” to request the transcript (and other documents).

To make the request, you must submit it to the office of the Board of Review **in person** or by **mail** at the following address: **IDES, Board of Review, 33 South State Street, 9th Floor, Chicago, IL 60603**. The request may also be filed by **fax** at: **(312) 793-2373**.

When we receive the request, we will mail you a letter notifying you of the total cost of the transcript. We charge 25 cents per page. To learn the total cost of other documents, please call **(800) 244-5631**. To avoid delaying a decision in your matter, you must mail a check for the cost of the transcript (and other documents) within 10 calendar days of the mailing date of the letter. If you initially only request to receive the transcript, you may also call within 7 calendar days after the transcript is mailed or otherwise provided to request and obtain other documents of record. Make checks payable to: **The Illinois Department of Employment Security**. Include on the check the Board Docket Number. On receipt of the check, we will mail you a copy of the transcript (and other documents) along with a letter informing you of a 10-day deadline in which to file a written argument to the Board (See “How Do I Submit a Written Argument?” on page 7).

How Can I Inspect the File?

If you wish to obtain the transcript (and/or other documents) in person, or review the file without obtaining a copy, you can make an appointment to inspect the file during normal business hours at the office of the Board of Review. **File inspections are allowed ONLY with a pre-arranged appointment.** You can request the appointment in person, by telephone, or in writing, but, to avoid delaying a decision in your matter, your request must be made either within 10 calendar days of the mailing date of the letter notifying you of the cost of the transcript, or, if you have obtained the transcript, within 7 calendar days after it was mailed or otherwise provided to you. We charge 25 cents per page for any copies of the record obtained at the Board office. If not already so notified, we will inform you of a 10-day deadline in which to file a written argument for the Board to consider (See “How Do I Submit a Written Argument?” on page 7). For appointments, call: **(800) 244-5631**.

How Do I Submit a Written Argument?

The Board generally decides cases based on the existing written record. The Board does not require a written argument in order to review the evidence and make a decision in accordance with the law. However, you may file a written argument for the Board to consider under the following conditions:

When a Transcript Was Not Requested

If You Appealed - You have **15 calendar days** after the appeal was filed to file a written argument with the Board.

If Other Party Appealed - You have **7 calendar days** after the mailing date of the “Notice of Pending Appeal” to file a written argument with the Board.

When a Transcript Was Requested (furnished by file inspection or by mail)

You must file the written argument with the Board no later than **10 calendar days** after the date the transcript was mailed to you or **10 calendar days** after the date of your appointment to inspect the file, whichever is applicable.

When filing your written argument, you must include with the argument a signed statement certifying that you “served” (mailed or delivered in person) a copy of your argument to the opposing party and describing how you served the written argument.

Example: I, (name), do hereby certify that I served a copy of the above written argument upon (name of opposing party) by placing it in a postage paid envelope addressed to (opposing party’s name and mailing address) and depositing it with the U.S. mail at (location of mail deposit) on (date deposited) at (time deposited).

You must file the written argument in person or by mail with the Board of Review at the following address:
IDES, Board of Review, 33 South State Street, 9th Floor, Chicago, IL 60603.

Can I Respond to the Written Argument of an Opponent?

Yes. To do so, you must file your written response with the Board within 7 calendar days after the opponent mailed or served the written argument to you. You must include with your written response a signed statement certifying that you served a copy of your response to the opponent and describing how you served the response.

Can I Reply to the Written Response of an Opponent?

Yes. To do so, you must file your written reply with the Board within 5 calendar days after the opponent's written response was mailed or served to you. You must include with your written reply a signed statement certifying that you served a copy of your reply to the opponent and describing how you served the written reply.

How Do I Submit Additional Evidence?

The Board generally decides cases based on the existing written record without additional proceedings. However, you may request that the Board consider additional evidence under conditions described below. The Board shall grant or deny the request in writing, generally in its written decision. If the request is granted, the decision or other written notice will specify the manner in which the additional evidence is to be submitted or is being considered.

The following conditions must be met:

When a Transcript Was Not Requested

If You Appealed - You have 15 calendar days after the appeal was filed to file a written request to present additional evidence.

If Other Party Appealed - You have 7 calendar days after the mailing date of the “Notice of Pending Appeal” to file a written request to present additional evidence.

When a Transcript Was Requested (furnished by file inspection or by mail)

You must file a written request to present additional evidence with the Board no later than 10 calendar days after the date the transcript was mailed to you or 10 calendar days after the date of your appointment to inspect the file, whichever is applicable.

Additional Requirements

1. A request to submit additional evidence must include:
 - a. A summary of the evidence to be introduced; and
 - b. An explanation showing that, for reasons that were not your fault and were outside your control, you were unable to introduce the evidence at the Referee’s hearing.
2. If you or your witness failed to appear at a scheduled hearing before the Referee, you must show one of the following:
 - a. You did not receive timely notice of the hearing;

- b. Your failure to appear at the hearing was due to circumstances beyond your control; or
 - c. You requested a continuance before the conclusion of the hearing, which was denied. Please describe the circumstances of the continuance request.
3. You must include with your written request a signed written statement certifying that you served a copy of your request to the opposing party and describing how you served the request.

Can I Respond to the Request to Submit Additional Evidence of an Opponent?

Yes. To do so, you must file your written response with the Board within 7 calendar days after the opponent mailed or served the written request to you. You must include with your written response a signed statement certifying that you served a copy of your response to the opponent and describing how you served the response.

Can I Reply to the Written Response of an Opponent?

Yes. To do so, you must file your written reply with the Board within 5 calendar days after the opponent's written response was mailed or served to you. You must include with your written reply a signed statement certifying that you served a copy of your reply to the opponent and describing how you served the written reply.

IMPORTANT: Identifying and Filing Documents?

All written arguments, requests to submit additional evidence, responses and replies must contain the Board of Review Docket Number assigned to the matter

and must be filed with the office of the Board of Review in person or by mail at the following address: **IDES, Board of Review, 33 South State Street, 9th Floor, Chicago, IL 60603.**

Can the Time In Which to File Written Argument or a Request to Present Additional Evidence be Extended?

Yes. The Board will grant a reasonable time extension for submitting a written argument or a request to submit additional evidence. However, you must show good cause for the requested extension. No extension shall be for less than 7 calendar days or more than 30 calendar days. If you wish to request an extension, please call: **(800) 244-5631.**

Can I Request An Oral Argument?

The Board generally decides cases on the basis of the existing written record without oral argument. However, you may file a request to present oral argument under the conditions described below. If the request is denied, the Board's decision will contain the reason for the denied request. If the request is granted, the Board will inform the parties of this in writing and will order an appropriate hearing. The following conditions must be met:

If You Appealed - You must file a signed request that the Board hear oral argument upon filing your appeal.

If Other Party Appealed - You have 7 calendar days after the "Notice of Pending Appeal" is mailed to file a signed request for oral argument. The request must contain the Board Docket Number of your case.

You must include with the request a signed statement certifying that you served a copy of the request to the opposing party and describing how you served the request.

You must file the signed request with the office of the Board of Review in person or by mail at the following address: **IDES, Board of Review, 33 South State Street, 9th Floor, Chicago, IL 60603**. You may also file the request by fax at: **(312) 793-2373**.

When Will I Get A Decision?

The Board will mail the decision to you as soon as possible after your appeal. Subject to the exception described below, the Illinois Unemployment Insurance Act states that the Board of Review shall issue its decision within 120 calendar days of the date of appeal to the Board. Most Board decisions are issued well before the 120 calendar days.

Exception - Upon a party's written request to the Board, an extension of up to 30 calendar days (beyond the 120 day period) may be granted. The extension shall be granted if the party shows good cause and states that the additional time is necessary for submitting its written argument or additional evidence.

What if a Decision Is Not Issued Within 120 Calendar days?

After 120 calendar days, or after the expiration of an extension described above, whichever is later, you may file with the Board a written request for a "Notice of Right to Sue" under conditions described below. Filing a request for a "Notice of Right to Sue" begins a 14-day period in which the Board must issue its decision. If the Board does not issue a decision within this 14-day period, the decision of the Hearings Referee becomes the final administrative decision.

After day 14, you will then have 35 calendar days to pursue judicial review of the matter by filing an appeal to Circuit Court. You may file a request for a “Notice of Right to Sue” under the following conditions:

- A. You may only file a request for a “Notice of Right to Sue” if you filed the appeal to the Board;
- B. To be valid, the request for a “Notice of Right to Sue” may only be filed after the 120-day period following the appeal filing date to the Board, or after the expiration of the extension described above;
- C. You must file a request for a “Notice of Right to Sue” by certified mail, return receipt requested, addressed to: **IDES, Board of Review 33 South State Street, 9th Floor, Chicago, Illinois 60603**; and
- D. The request should contain the Board Docket Number of the case.

If a request for a “Notice of Right To Sue” is not filed, the decision of the Board of Review, issued at any time, shall be the final decision on the appeal.

What If I Disagree with the Decision of the Board of Review?

For further review, you must file a “Complaint for Administrative Review” in Circuit Court and have a summons issued within 35 calendar days from the date of mailing of the Board’s decision. The law does not permit the Board to reconsider its decision. You may only file your complaint in the circuit court of the county where you live or where your principal place of business is located. If you neither reside nor have a place of business within Illinois, you must file your complaint in the Circuit Court of Cook County. Such appeal rights are described on the final page of the Board’s decision.

FOR MORE DETAILED INFORMATION

Visit the Forms and Publications Section of our website at **www.ides.illinois.gov/publications**. You can find Benefit Rules about Board of Review Appeals under “Illinois Unemployment Insurance Law Handbook.” Sections 2720.300-345 of the IDES Rules, in particular, address appeals to the Board of Review.

The Illinois Department of Employment Security is an equal opportunity employer and complies with all state and federal nondiscrimination laws in the administration of its programs. Auxiliary aids and services are available on request to individuals with disabilities. The Illinois Department of Employment Security, Equal Employment Opportunity (EEO) officer is responsible for compliance and can be reached at **(312) 793-9290** or **TTY (888) 340-1007**.

Note: The information contained in this publication is subject to change at any time. For the latest information, visit the IDES website at www.ides.illinois.gov.



State of Illinois
Illinois Department of Employment Security
33 S. State Street FL 9
Chicago, IL 60603-2901
(800) 244-5631 TTY (888) 340-1007
www.ides.illinois.gov

Printed by authority of the State of Illinois
05-12 SN4016 3.6M PRT3534186